

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2006-0080

Mandatory Minimum Penalties

For

Violation of NPDES Monitoring and Reporting Requirements
Waste Discharge Requirements Order No. 95-47
NPDES No. CA0023078

In the Matter of

Fort Bragg Municipal Improvement District No. 1
Wastewater Treatment Facility

WDID No. 1B84083MEN

Mendocino County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), having received from Fort Bragg Municipal Improvement District No. 1 (hereinafter Discharger) a waiver of the right to a hearing in the matter of mandatory minimum penalties pursuant to California Water Code sections 13385, subdivisions (h) and (i) for failure to meet mandatory effluent requirements as required by Order No. 95-47 (NPDES No. CA0023078) and associated monitoring and reporting program, and having received Discharger's request for the opportunity to implement a Compliance Project in lieu of the penalty prescribed, finds the following:

1. The Discharger operates a municipal wastewater treatment facility (WWTF), located in the City of Fort Bragg, to collect, treat, and dispose of wastewater generated within the sewerage district. The WWTF is designed to provide secondary treatment, disinfects the wastewater using chlorine, and then discharges the treated effluent to the Pacific Ocean through an ocean outfall.
2. On June 22, 1995, Regional Water Board adopted Waste Discharge Requirements Order No. 95-47, for the Fort Bragg Municipal Improvement District No. 1 to regulate discharges of waste from the Fort Bragg WWTF. Order No. 95-47 was rescinded and replaced with Waste Discharge Requirements Order No. R1-2004-0009 on March 24, 2004. Order No. R1-2004-0009 became effective on May 13, 2004. Subsequent modifications to Order No. R1-2004-0009 resulted in Regional

Water Board adoption of current Order No. R1-2005-0096 on October 12, 2005. All adopted Orders require the Discharger to implement a discharge monitoring program and to prepare and submit monthly NPDES self-monitoring reports to the Regional Water Board pursuant to Water Code section 13383.

3. According to monitoring reports submitted by the Discharger, the discharge exceeded effluent limitations 74 times during the 180-day period from January 1, 2000 through May 13, 2004.
4. Water Code section 13385, subdivisions (h) and (i) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious and chronic violation. Water Code section 13385, subdivision (k) allows the Regional Water Board to direct all or a portion of the penalty toward a Compliance Project (CP) in accordance with Section X of the State Water Resources Control Board's Water Quality Enforcement Policy (Enforcement Policy).
5. On September 12, 2005, the Executive Officer issued Administrative Civil Liability Complaint No. R1-2005-0095 assessing a mandatory minimum penalty of \$192,000 for effluent violations as described in Finding No. 3 above. On October 12, 2005, the Discharger waived its right to a public hearing and requested approval to conduct a CP in lieu of paying the mandatory minimum penalty of \$192,000. Regional Water Board staff costs associated with this enforcement action will amount to at least \$10,000, including staff time to tally violations, prepare the existing complaint and proposed Order, public notices, public hearing, response to comments, and evaluation and tracking of a CP through to completion.
6. The Regional Water Board received an updated CP from the Discharger on July 12, 2006. The Discharger proposes a CP to install a headworks screening system and washing press to separate liquid and fine organics from untreatable solid screenings. Removal of untreatable solids will make the waste treatment process more efficient, reduce clogs and pump failures, and improve operation and maintenance at the WWTF. The amended design incorporates the headworks screening system in one of the existing influent channels to the grit chamber with minor structure modifications. Total cost for the headworks improvements is \$520,000. Project completion is September 30, 2007. The proposed CP and time schedule are described in Attachment A incorporated herein.
7. A duly noticed public hearing on this matter was held before the Regional Water Board during a public meeting on September 19 and 20, 2006, in the Regional Water Board Hearing Room, 5550 Skylane Boulevard, Suite A Santa Rosa, California. The documents for the agenda item were provided to the Discharger prior to the hearing.

Comment [S01]: Why are we stating this? Are you adding staff costs to the \$192K?

8. At the hearing, the Regional Water Board considered whether to affirm, reject or modify the proposed CP and any other action appropriate as a result of the hearing.
9. The Regional Water Board finds that the CP, as proposed, meets the criteria established in the State Water Resources Control Board's Enforcement Policy.
10. The issuance of this Order is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) pursuant to title 14, California Code of Regulations, sections 15308 and 15321(a)(2).
11. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board to review the action in accordance with section 13320 of the Water Code and title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Resources Control Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

THEREFORE, IT IS HEREBY ORDERED pursuant to Water Code section 13385 that:

1. The Discharger shall be assessed the mandatory minimum penalty in the amount of \$192,000. The Discharger shall pay \$10,000 into the State Water Pollution Cleanup and Abatement Account within thirty days of adoption of this order.
2. The sum of \$182,000 is eligible to be permanently suspended upon satisfactory completion of the CP as described in Attachment A of this Order. The CP meets the criteria established in the Enforcement Policy and shall be completed on or before September 30, 2007, according to the following time schedule:

Task A: Authorize Engineering and Design	This task has been completed. Report of completion due on or before September 1, 2006
Task B: Complete Preliminary Design and select equipment	Progress report due on or before November 1, 2006
Task C: Receive Bids and Equipment	Progress report due on or before December 15, 2006
Task D: Complete Project Design	Progress report due on or before February 1, 2007
Task E: Complete Bid Process	Progress report due on or before April 1, 2007
Task F: Begin Construction	Progress report due on or before May 15, 2007

Task G: Complete Construction	Progress report due on or before September 30, 2007 Final report due on or before November 30, 2007
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3. If, given written justification from the Discharger, the Executive Officer determines that a delay in the CP implementation schedule was beyond the reasonable control of the Discharger, the Executive Officer may revise the implementation schedule as appropriate. Written justification must be received by the Executive Officer before the specific due date occurs, must describe circumstances causing the delay, and must state when each task of the CP will be completed.
4. The penalty amount of \$182,000 shall be permanently suspended if the Executive Officer determines that the Discharger completes the CP and provides the Regional Water Board with the scheduled progress reports toward completion of the CP and the final report by November 30, 2007. The final report shall contain documentation of expenditures.
5. Notwithstanding the issuance of the Order, the Regional Water Board shall retain the authority to assess additional penalties for violations of the Discharger's Waste Discharge Requirements.

Certification

I, Catherine E. Kuhlman, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on September 19 and 20, 2006

Catherine E. Kuhlman
Executive Officer